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TO:	FROM:
Examiner M. Luu	Paul D. Amrozowicz, Reg. No. 45,264
COMPANY: USPTO	DATE: DECEMBER 27, 2006
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RE: Response	RECIPIENTS REFERENCE NUMBER: 10/650,008

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: David B. DWYER
Serial No.: 10/650,008
Filed: August 26, 2003

Group Art Unit: 3663
Examiner: M. Luu
Confirmation No.: 6065

For: INTEGRATED FLIGHT MANAGEMENT AND TEXTUAL AIRCRAFT TRAFFIC CONTROL DISPLAY SYSTEM AND METHOD

Docket No.: H0004368
Customer No.: 000128

CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

on December 27, 2006. Signature: Paul D. Amrozowicz

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Reply Brief pursuant to 37 C.F.R. § 41.41 in response to an Examiner's Answer mailed November 27, 2006. Each of the topics in the Examiner's Answer for which a response is supplied herein are indicated using appropriate subheadings on the following pages. This Reply Brief does not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. As such, Appellant submits it is in full compliance with 37 C.F.R. § 41.41(a).

I. THE EXAMINER'S CONTINUED REJECTION UNDER 35 U.S.C. § 102 COMPLETELY IGNORES POSITIVELY RECITED FEATURES THAT ARE NOT MERE STATEMENTS OF INTENDED USE

In the Examiner's Answer, the Examiner continues to erroneously allege that the claims merely recite statements of intended use or field of use, such as "operable to," adapted to," and "capable of" in making the § 102 rejection. In doing so, the Examiner wholly, and erroneously, ignores features explicitly recited in the claims. In particular, the Examiner's Answer states that the processor being "adapted to receive" the recited data is merely intended use, and accords this no patentable weight. The Examiner's Answer then goes on to allege that Decker et al. discloses a processor that is operable to supply flight plan display commands and clearance message display commands. Quite significantly, however, the Examiner's analysis places emphasis on the words "operable to" and completely ignores the recitation that the processor is "operable, in response [to the received data and textual clearance message signals], to supply one or more flight plan display commands and one or more clearance message display commands." Thus, while Appellant certainly does not concede that Decker et al. discloses all that the Examiner alleges it does, Appellant does submit that Decker et al. fails to disclose (or even remotely suggest) at least a processor that is operable, in response to data representative of a current flight plan and textual clearance message signals, to supply one or more flight plan display commands and one or more clearance message display commands. The fact is, the Examiner has not and cannot point to any teaching or disclosure of this feature, which is why, Appellant submits, the Examiner erroneously ignores this feature and puts misplaced reliance on the language being mere recitation of intended use.

II. THE EXAMINER'S RESPONSE TO ARGUMENT SECTION IS WHOLLY ERRONEOUS AND IS NOT SUPPORTED BY STATUTE OR CASE LAW

In the "Response to Argument" section of the Examiner's Answer, the Examiner erroneously alleges that the claims merely recite a processor that is "adapted to" or "capable of" performing a function. Examiner's Answer at 14. Moreover, the Examiner erroneously relies on the proposition espoused in In re Schreiber, 128 F.3d 1473, 44 USPQ2d 1429 (Fed. Cir. 1997), that a claim that recites a new intended use for an old product does not render a claim to the old

product patentable. Id. As delineated above, the claims on appeal do not recite a "new intended use" for a processor. Rather, the claims recite a specifically configured processor. In particular, a processor that is operable, in response to the receipt of specified data and signals, to supply specific display commands. As the Board may appreciate, according to the Examiner's line of reasoning, absolutely no processor controlled device could ever be patentable. Such a line of reasoning is clearly not supported by statue or case law.

III. CONCLUSION

In view of the foregoing, Appellant once again submits that the final rejection of Claims 1-12 is improper and should not be sustained. Appellants also repeat its earlier request for a reversal of the rejections in the final Office Action dated June 2, 2006.

Respectfully submitted,

Dated December 27, 2006

Paul D. Amrozowicz
Registration No. 45,264